

ORIGINAL

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

In re Amendment of Section 73.202(b) )  
of the Commission's Rules, Table of Allotments, ) MM Docket No. 05-151  
FM Broadcast Stations ) RM-11222  
(LLANO AND JUNCTION, TEXAS) )

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To: The Office of the Secretary,  
for the Attention of the Assistant Chief, Audio Division, Media Bureau

## COUNTERPROPOSAL

Munbilla Broadcasting Properties, Ltd. (*MPBL*), by its communications counsel, hereby  
lodges its Counterproposal in the proceeding.

### I. BACKGROUND

#### THE PETITION AND THE NPRM

1. On February 2, 2005, Linda Crawford filed a Petition for Rule Making asking the Commission to allot Channel 297A to Llano, Texas as a fourth local commercial FM service. The Petition noted that, for the Commission to allot Channel 297A to Llano on a fully spaced basis, The Commission would have to shift the reference point for the vacant cochannel allotment at Junction, Texas by approximately 11 km to the Southwest. Ms. Crawford also noted that the Commission had dismissed a previous Counterproposal (in MM Docket 00-148) proposal involving Channel 297A at Llano and that, although that dismissal was not final, the dismissal was effective. Ms. Crawford further noticed the the Commission had, in MM Docket No. 01-154, rejected a Petition for Rule Making (filed by Charles Crawford) to allot Channel 297A to Goldthwaite, Texas, because it was an untimely Counterproposal to the dismissed

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Counterproposal in MM Docket No. 00-148. (Again, although the dismissal of Mr. Crawford's Goldthwaite Petition was not final, it was effective.) Ms. Crawford also noted that her proposal conflicted with a Petition to allot Channel 297C1 to Rocksprings, Texas, but claimed that the Rocksprings petition was defective.

2. Ms. Crawford's Petition prompted the Media Bureau to issue the Notice of Proposed Rule Making in the instant proceeding, 20 FCC Rcd 6318, 70 Fed. Reg. 19402 (2005) (the NPRM). The NPRM proposed to allot Channel 297A to Llano, Texas as a fourth local commercial FM service. The NPRM noted that, to be fully spaced, the Llano allotment would require a site restriction of six kilometers West, and would also require a greater site restriction at Junction than currently exists (13 km vs. four km). The NPRM noted that the proposed Llano channel conflicts with (Charles Crawford's) dismissed proposal for Channel 297A at Goldthwaite, Texas in MM Docket No. 01-154, and that Mr. Crawford's Application for Review of the dismissal remains pending. Therefore, the NPRM, citing Auburn, Alabama, et al., 18 FCC Rcd 10333 (MB 2003), cautioned interested parties that the proposed Llano allotment could only be granted subject to the outcome of MM Docket No. 01-154. The NPRM also solicited Counterproposals, to be filed by May 12, 2005.

## **II. COUNTERPROPOSAL**

### **A. RECITATION OF THE COUNTERPROPOSAL**

3. MBPL counterproposes the allotment of Channel 297A to the community of Goldthwaite, Texas as a first local service. MBPL's proposed Reference Point for Channel 297A at Goldthwaite is North Latitude 31° 30' 00"; West Longitude 98° 42' 23". This reference point

is 15.8 kilometers from the *far side* of Goldthwaite. Because the  $70\text{-dB}\mu_{f(50,50)}$  contour of a maximum-parameter Class A facility is 16.2 kilometers, there will be full city-grade coverage of Goldthwaite, as required. The proposed site restriction is thus permissible for a Class A FM allotment in light of city-grade-service constraints. The site restriction is necessary to avoid a short-spacing to the licensed coordinates of cochannel Class A station KLFX at Nolanville, Texas, FCC Facility ID No. 60090. Unlike the case of Ms. Crawford's Petition, this Counterproposal requires no aggravation of the present site restriction imposed on the cochannel allotment at Junction.

#### **B. TABULAR DEPICTION OF THE COUNTERPROPOSAL**

4. Schematically, MBPL's Counterproposal is as follows:

| COMMUNITY          | PRESENT | PROPOSED |
|--------------------|---------|----------|
| Goldthwaite, Texas | ---     | 297A     |

#### **C. TECHNICAL COMPLIANCE OF THE COUNTERPROPOSAL**

5. As Exhibit A, the Engineering Statement of Hatfield & Dawson Consulting Electrical Engineers, indicates, the Commission can allot Channel 297A to Goldthwaite, consistent with spacing and city-grade-service requirements.

6. As Exhibit A also indicates, this Goldthwaite Counterproposal, like Ms. Crawford's proposed Llano allotment, is short spaced to the proposed substitute Channel 297A at Llano, originally part of a Counterproposal in MM Docket 00-148. However, this Counterproposal is equally acceptable for rule making, pursuant to Auburn, Alabama et al., supra.

## **D. SECTION 307(B) CONSIDERATIONS**

7. Goldthwaite is fully deserving of a first local service. Goldthwaite, an incorporated city and the County Seat of Mills County, stands at the junction of U.S. Highway 84, U.S. Highway 183, State Highway 16, Farm-to-Market Road 574, and Farm-to-Market Road 2005. It is served by the Burlington Northern/Santa Fe Railway. Goldthwaite has its own Zip Code (76844), Post Office, local government offices (including a Court House), health-care facilities, and local businesses including retail shopping, motels, restaurants, and banking facilities. The production of cattle, sheep, wool, mohair, pecans, and farm equipment are linchpins of the local economy. The civic center and livestock facilities are the scene of activities throughout the year. The Chamber of Commerce has its own web site, <<http://www.goldthwaite.biz/>>, and is located in the historic jail building, which dates from 1888. A variety of types of businesses are members of the Chamber. <<http://www.goldthwaite.biz/specials.htm>>. There is also a historical museum in Goldthwaite. Goldthwaite Public School is a Class 2A school that has produced several state-championship football teams.

8. The City of Goldthwaite operates with an annual budget of \$2,000,000.00, and levies a 2% City Sales Tax. The City does not levy a property tax. The City owns and operates its electrical-power distribution system. The system purchases power from the Lower Colorado River Authority. The City also owns and operates a State-approved, superior-rated, municipal water-supply system, a State- and EPA-approved wastewater treatment system, a full-service library that provides internet access, a 9-hole Municipal Golf Course, a city park, and a swimming pool. The City is served by Verizon Communications, Lone Star Gas, Charter

Communications Cable TV, Central Texas Wireless TV. Centex Waste Management provides sanitation service. Ninety-five percent of the City's streets are paved. See <<http://www.centex.net/~city/>>, <<http://www.centex.net/~city/profile.html>>, <<http://www.tsha.utexas.edu/handbook/online/articles/view/GG/hjg4.html>>.

9. On numerous occasions, in allotment contexts, the Commission has recognized the significance of a community's status as a County Seat. See, e.g., Greenville and Cooper, Texas, 17 FCC Rcd 1810 (2002); Powhatan and Goochland, Virginia, 12 FCC Rcd 3191 (1997). Allotting Channel 297A to Goldthwaite will clearly further the goals of § 307(b) of the Communications Act of 1934, as amended.

10. This Counterproposal will provide Goldthwaite, Texas, an incorporated community with a 2000 Census population of 1,802 persons, with a *first* local service. This Counterproposal thus ranks Priority Three under Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982). On the other side of the equation, Ms. Crawford's Petition seeks a *fourth* local service to Llano. Her proposal ranks Priority Four under Revision of FM Assignment Policies and Procedures, *supra*.

11. Simply put, there is no contest. Under Revision of FM Assignment Policies and Procedures, a Priority-Three Counterproposal outranks a Priority-Four Petition any day of the week. Therefore, grant of this Counterproposal will clearly better serve the goals of § 307(b) of the Communications Act than would grant of Ms. Crawford's Petition. Revision of FM Assignment Policies and Procedures, *supra*.

### **E. NO JUNCTION SITE RESTRICTION REQUIRED**

12. The adoption of this Counterproposal provides the additional benefit that allotting Channel 297A to Goldthwaite does not require aggravation of the preexisting site restriction at Junction. Because a lesser site restriction is preferable to a greater site restriction,<sup>1</sup> this is an additional reason for favoring this Counterproposal over Ms. Crawford's Petition.

### **III. MISCELLANEOUS**

13. MBPL states its intent to apply for a construction permit for Channel 297A at Goldthwaite, if allotted. MBPL further states its intent, should MBPL be awarded the construction permit, to build the authorized facilities, to place the constructed facilities into broadcast service, and to seek a license to cover those facilities.

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<sup>1</sup>See Chico, California, 6 FCC Rcd 4294 (1991); Stuart and Boone, Iowa, 5 FCC Rcd 4537 (1990), recons. den., 6 FCC Rcd 6036 (1991).

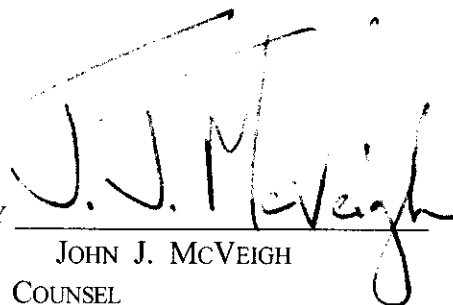
#### IV. CONCLUSION

14. For all of the above reasons, the staff should promptly issue a Report and Order implementing MBPL's Counterproposal, rejecting Ms. Crawford's Petition, and terminating this proceeding.

Respectfully submitted,

**MUNBILLA BROADCASTING PROPERTIES, LTD.**

BY

A handwritten signature in black ink, appearing to read "J. J. McVeigh", is written over a horizontal line.

JOHN J. McVEIGH

ITS COUNSEL

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DATE: MAY 11, 2005

## EXHIBIT A



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STEPHEN S. LOCKWOOD, PE  
DAVID J. PINION, PE

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## **ENGINEERING STATEMENT**

**PETITION FOR RULEMAKING TO  
AMEND SECTION 73.202 OF THE RULES  
AND REGULATIONS FOR THE FEDERAL  
COMMUNICATIONS COMMISSION**

**TO ALLOT FM CHANNEL 297A  
FOR USE AT GOLDTHWAITE, TX**

**MUNBILLA BROADCASTING PROPERTIES, LTD.**

**4/2005**

## **Engineering Statement**

This Engineering Statement has been prepared on behalf of Munbilla Broadcasting Properties, Ltd., in support of a Petition for Rulemaking to amend §73.202 of the Commission's Rules to allot Channel 297A for use at Goldthwaite, Texas.

This proposal is being filed as a counterproposal in MB Docket 05-151. The lead proposal in this proceeding has proposed the allotment of Channel 297A at Llano, Texas.

### **Channel 297A at Goldthwaite**

As outlined in the attached channel study, Channel 297A can be allotted for use at Goldthwaite in compliance with the Commission's applicable Rules and Regulations regarding the separation among domestic FM stations and allotments. For this study allotment reference coordinates at N31-30-00 x W98-42-23 have been used in order to avoid a short-spacing to the licensed operation of KLFX on Channel 297A at Nolanville.

The nominal distance to the 70 dBu F(50,50) contour for a Class A station is 16.2 kilometers. The far side of Goldthwaite is 15.8 km from the proposed allotment site. Therefore, and as demonstrated on the attached map exhibit, this site will provide greater than 70 dBu coverage for all of Goldthwaite.

**Hatfield & Dawson Consulting Engineers**

The instant proposal has an apparent short-spacing to an earlier-filed proposal by Charles Crawford ("Crawford") to allot Channel 297A at Goldthwaite, which was docketed in MM Docket No. 01-154. By Report and Order released on March 19, 2004, the Commission dismissed Crawford's Goldthwaite petition owing to the fact that it was short-spaced to a prior-filed counterproposal in MM Docket No. 00-148. Crawford subsequently filed an Application for Review of that dismissal, which remains pending. MM Docket No. 00-148 is no longer an impediment to grant of an allotment on Channel 297A at Goldthwaite since the Commission has issued a decision in that proceeding dismissing the allotment proposal which was in conflict with the use of Channel 297A at Goldthwaite, which action is effective but not yet final. Grant of the instant counterproposal to add Channel 297A at Goldthwaite would render moot Crawford's Application for Review in MM Docket No. 00-148.

An apparent short-spacing to a proposed substitution of Channel 297A for Channel 242A at Llano for use by station KQBT is rendered moot by the Commission's May 2003 Report and Order in MM Docket No. 00-148, which dismissed the allotment proposal which included that particular element. The Commission's decision in MM Docket No. 00-148 is now effective, and was upheld by the April 2004 Memorandum Opinion and Order in that proceeding. Therefore, per the policy enunciated in *Auburn, Alabama, et al* (MB Docket No. 01-104, MO&O released May 20, 2003), it is permissible to file the instant rulemaking proposal, which relies on action in another proceeding which is effective although not yet final.

The instant proposal will provide Goldthwaite, an incorporated city with a 2000 Census population of 1,802 persons, with its first local service.

Hatfield & Dawson Consulting Engineers

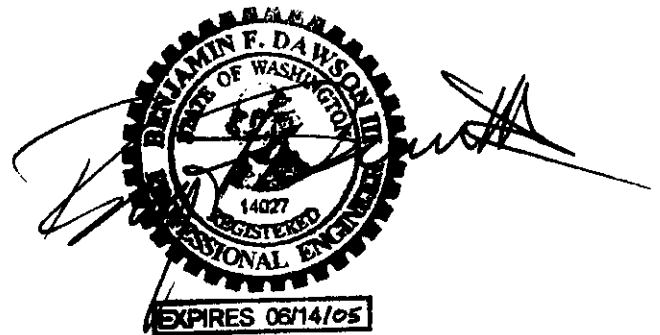
Grant of the proposed allotment at Goldthwaite will provide a total of 6,120 persons within the 60 dBu contour with an additional aural service.

Hatfield & Dawson Consulting Engineers

### Statement of Engineer

This Engineering Statement supporting a Petition for Rulemaking to revise the Table of Allotments at Goldthwaite, Texas, has been prepared by Erik C. Swanson under my direct supervision. All representations herein are true to the best of my knowledge. I am an experienced radio engineer whose qualifications are a matter of record with the Federal Communications Commission. I am a partner in the firm of Hatfield & Dawson Consulting Engineers and am Registered as a Professional Engineer in the States of Washington and California.

Signed this 13<sup>th</sup> day of April, 2005.



Benjamin F. Dawson III, P.E.

Erik C. Swanson

Hatfield & Dawson Consulting Engineers

SEARCH PARAMETERS

FM Database Date: 050407

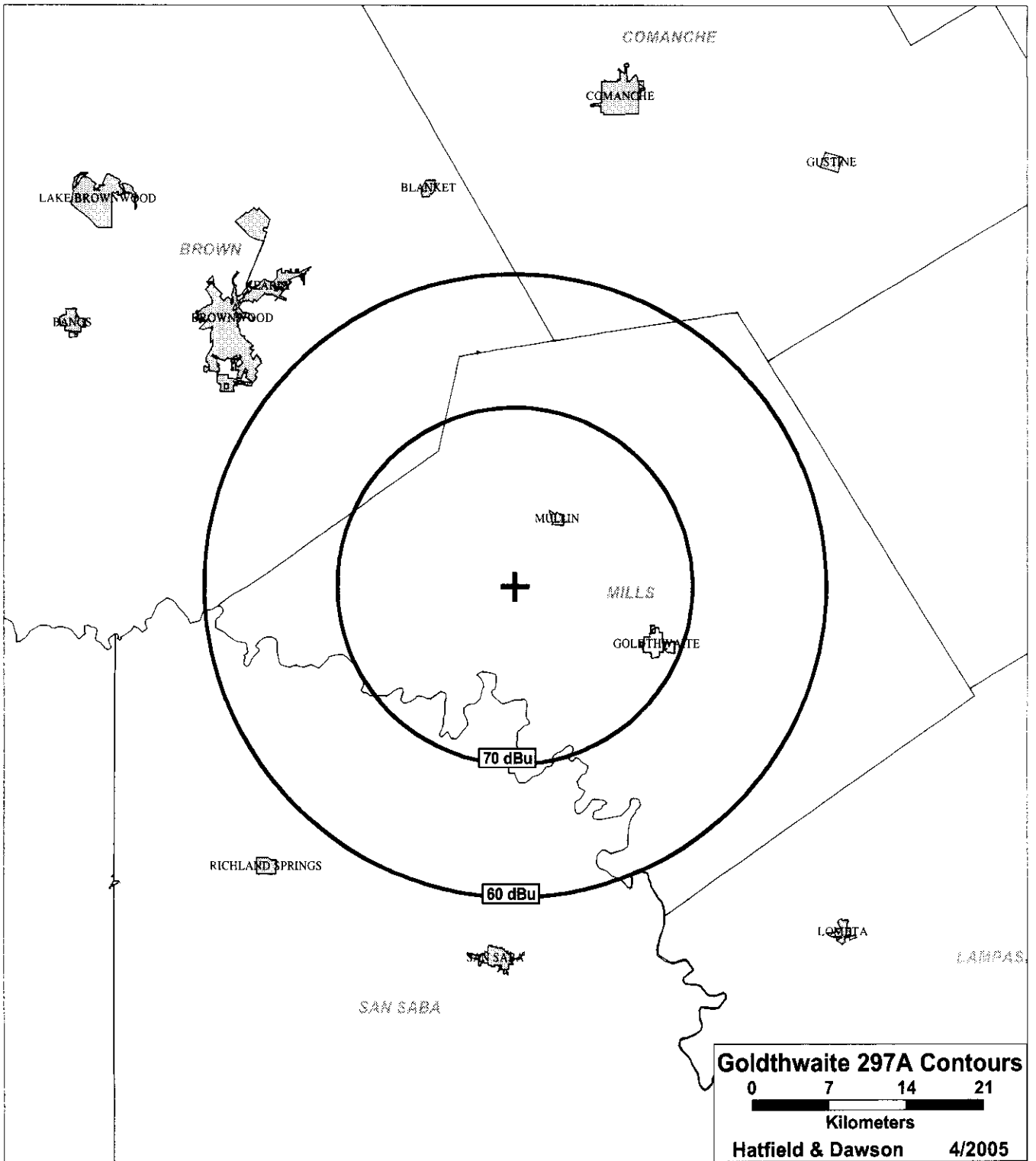
Channel: 297A 107.3 MHz  
 Latitude: 31 30 0  
 Longitude: 98 42 23  
 Safety Zone: 32 km  
 Job Title: GOLDTHWAITE 297A

Page 1

| Call<br>Status   | City<br>St         | FCC File No. | Channel<br>Freq. | ERP(kW)<br>HAAT(m) | Latitude<br>Longitude | Bearing<br>deg-True | Dist<br>(km) | Req<br>(km) |
|--|--------------------|--------------|------------------|--------------------|-----------------------|---------------------|--------------|-------------|
| ADD  | GOLDTHWAITE        |              | 243A             | 0.000              | 31-28-00              | 107.6               | 12.26        | 10          |
|  | TX RM-DD-165       |              | 96.5             | 0.0                | 098-35-00             |                     | 2.26         | CLOSE       |
| ADD  | GOLDTHWAITE        |              | 243A             | 0.000              | 31-31-55              | 79.6                | 19.82        | 10          |
|  | TX RM-vmm7         |              | 96.5             | 0.0                | 098-30-04             |                     | 9.82         | CLOSE       |
| ADD  | BLANKET            |              | 295A             | 0.000              | 31-46-04              | 334.1               | 33.04        | 31          |
|  | TX RM-rfs22*       |              | 106.9            | 0.0                | 098-51-33             |                     | 2.04         | CLOSE       |
| KDXX<br>LIC  | BENBROOK           |              | 296C1            | 74.000             | 32-35-10              | 34.1                | 146.08       | 133         |
|  | TX BLH-020719AAZ   |              | 107.1            | 320.0              | 097-49-52             | SS                  | 13.08        | CLEAR       |
| K296FQ<br>CP   | FREDERICKSBURG     |              | 296D             | 0.050              | 31-15-59              | 214.3               | 31.39        | 0           |
|  | TX BNPFT-030829ASS |              | 107.1            | 220.0              | 098-53-34             |                     | 0.00         | TRANS       |
| ADD  | PAINT ROCK         |              | 296C3            | 0.000              | 31-31-15              | 271.6               | 100.35       | 89          |
|  | TX RM-11150        |              | 107.1            | 0.0                | 099-45-45             |                     | 11.35        | CLEAR       |
| ADD  | GOLDTHWAITE        |              | 297A             | 0.000              | 31-28-29              | 204.2               | 3.08         | 115         |
|  | TX RM-10163        |              | 107.3            | 0.0                | 098-43-11             |                     | -111.92      | SHORT       |
| NOTE: DOCKET 01-154 - SEE TEXT FOR DISCUSSION  |                    |              |                  |                    |                       |                     |              |             |
| ADD  | LLANO              |              | 297A             | 0.000              | 30-43-40              | 174.0               | 86.09        | 115         |
|  | TX RM-bh-6*        |              | 107.3            | 0.0                | 098-36-43             |                     | -28.91       | SHORT       |
| NOTE: DOCKET 00-148 - SEE TEXT FOR DISCUSSION  |                    |              |                  |                    |                       |                     |              |             |
| ADD  | LLANO              |              | 297A             | 0.000              | 30-46-00              | 182.1               | 81.36        | 115         |
|  | TX RM-11222        |              | 107.3            | 0.0                | 098-44-15             |                     | -33.64       | SHORT       |
| NOTE: THIS IS THE LEAD PROPOSAL IN DOCKET 05-151<br>THE INSTANT PROPOSAL IS A COUNTERPROPOSAL TO THIS FILING |                    |              |                  |                    |                       |                     |              |             |
| DEL  | NOLANVILLE         |              | 297A             | 0.000              | 31-05-38              | 112.6               | 116.24       | 115         |
|  | TX RM-bh-4*        |              | 107.3            | 0.0                | 097-34-51             |                     | 1.24         | CLOSE       |
| KLFX<br>LIC  | NOLANVILLE         |              | 297A             | 1.950              | 31-05-23              | 113.1               | 114.86       | 115         |
|  | TX BLH-941117KC    |              | 107.3            | 160.0              | 097-35-55             | SS                  | -0.14        | SHORT       |
| ADD  | ROCKSPRINGS        |              | 297C1            | 0.000              | 30-00-56              | 221.3               | 218.34       | 200         |
|  | TX RM-spm184       |              | 107.3            | 0.0                | 100-12-18             |                     | 18.34        | CLEAR       |
| VAC  | HAMILTON           |              | 299A             | 0.000              | 31-46-54              | 56.6                | 57.12        | 31          |
|  | TX RM-10004        |              | 107.7            | 0.0                | 098-12-08             |                     | 26.12        | CLEAR       |
| DEL  | HAMILTON           |              | 299A             | 0.000              | 31-46-54              | 56.6                | 57.12        | 31          |
|  | TX RM-11015        |              | 107.7            | 0.0                | 098-12-08             |                     | 26.12        | CLEAR       |
| ADD  | RICHLAND SPRINGS   |              | 299A             | 0.000              | 31-09-42              | 219.7               | 48.79        | 31          |
|  | TX RM-11015        |              | 107.7            | 0.0                | 099-02-03             |                     | 17.79        | CLEAR       |

44444 END OF FM SPACING STUDY FOR CHANNEL 297 44444

Hatfield & Dawson Consulting Engineers

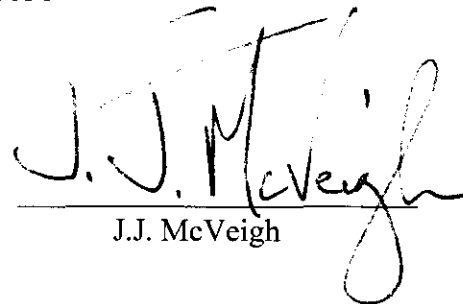


## CERTIFICATE OF SERVICE

I hereby certify that I have, this Eleventh day of May, 2005, sent copies of the foregoing **COUNTERPROPOSAL** by first-class United States mail, postage prepaid, to:

Linda Crawford  
3500 Maple Avenue, Suite 1320  
Dallas, Texas 75219

Gene A. Bechtel, Esq.  
Law Office of Gene Bechtel  
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Washington, D.C. 20036



J.J. McVeigh